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COMMITTEE ON THE RIGHTS OF THE CHILD

Fifth session

SUMMARY RECORD OF THE 120th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 20 January 1994, at 3 p.m.

Chairperson: Mrs. BADRAN

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GE.94-15255 (E)

The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION (agenda item 5) (continued)

Initial report of Romania (CRC/C/3/Add.16)

1. At the invitation of the Chairperson, Mr. Oproiu, Mrs. Laubatu and Mr. Marquineanu (Romania) took places at the Committee table.

2. The CHAIRPERSON invited the Romanian delegation to provide the Committee with general information on the situation of children in Romania and to reply to questions 1 to 8 of the section entitled "General measures of implementation" of the list of issues to be taken up (CRC/C/5/WP.5), in particular question 5 concerning steps taken to harmonize existing legislation with the Convention.

"General measures of implementation
(Arts. 4, 42 and 44, para. 6 of the Convention)

1. What concrete measures have been taken to make the report widely available to the public at large?

2. To what extent have school curricula been adjusted to give room for education about the Convention? What measures have been taken to train professional groups about the Convention?

3. Please describe steps taken to ascertain that administrative structures created to implement provisions in the Convention do function in an effective manner and are well coordinated. Please describe in this context the role of the National Commission for Child Protection.

4. Please provide information on measures taken to coordinate the collection of statistical data and other necessary information about the status of children as a basis for designing programmes for the economic, social and cultural rights of the child.

5. Please provide information on steps taken to harmonize existing legislation with the Convention.

6. Please indicate what proportion of official budgets is allocated to social priorities for children.

7. Please describe decisions taken to ensure in the budget the allocation 'to the maximum extent of (...) available resources for the rights of the child'.

8. What steps are taken to encourage the participation of the civil society in the defence of the rights of the child?"

3. Mr. OPROIU (Romania) drew attention to his Government's written replies (no document symbol) to the list of questions contained in document CRC/C/5/WP.5. He thanked the Committee on the Rights of the Child for its

excellent work in ensuring the implementation of the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989. The ratification of the Convention by the Romanian Government and Parliament only two months after that date was proof of the importance Romania attached to the rights of the child as an integral part of human rights. Since the demise of the Communist regime, Romania had embarked on an accelerated process of transition to the rule of law and a market economy which was reflected in substantial changes in all areas of political, economic, social and cultural life. The changes had also found tangible expression in the adoption of new laws whose provisions were in conformity with the content and requirements of the Convention on the Rights of the Child. Examples were Act No. 61/1993 regulating the payment of State grants for children on a non-discriminatory basis, i.e. irrespective of the parents' financial situation, and Act No. 47/1993 on the judicial declaration of abandonment of children, which clarified the legal status of abandoned children. Furthermore, by Decision No. 103/1993, the Romanian Government had established the National Committee for the Protection of Children, an institution responsible for supervising the implementation of the Convention, and Act No. 53/1992 relating to special protection for disabled children had entered into force in January 1993. In addition, the Government was considering the promulgation of a law to provide protection and free education for refugee children.

4. Considerable efforts had been made to improve the living conditions of children placed in institutions, especially with the assistance of foreign governmental and non-governmental organizations, particularly the European Union, but much remained to be done in that regard, especially with regard to efforts to find alternatives to institutionalization. Medical care for children had distinctly improved, although the infant mortality rate was still very high (23.4 per thousand live births) because of inadequate medical care, but also a wide range of socio-economic factors such as inflation and the rise in unemployment. There were still many shortcomings that needed to be overcome in the health sphere, especially with regard to the monitoring of children's state of health and early detection of disease, although special measures had been taken to build up a stock of drugs, especially antibiotics, for the speedy treatment of sick children at home. The supply of powdered milk for children up to one year also remained precarious. Finally, the problem of adoption was still a matter of concern. The establishment of the Romanian Committee for Adoption had created the legislative framework for adoption, but the application of the relevant laws was still problematic and consideration was being given to setting up a network of departmental sections of the Committee to ensure their implementation.

5. Obviously, it was not sufficient to change laws and structures; what must also be done above all was to change mentalities and convince people that a child needed a family, that institutions must be open and that they must recreate an environment resembling the family environment. However, that naturally took time, patience and also financial resources, which were very limited in Romania at the present time. It was further recognized that coordination between all the governmental and non-governmental bodies working in the field left much to be desired, to the extent that the activities undertaken were sometimes contradictory. The Romanian Government consequently asked the Committee to assist it by giving it advice on what it should do to

give effect to the principles embodied in the Convention on the Rights of the Child.

6. Mrs. BELEMBAOGO thanked the Romanian Government for having made available to the Committee, in addition to its initial report, several documents containing general information on the situation of children in Romania and for having provided written replies to the questions asked by the Committee, which gave an idea of the measures taken to implement the Convention. Romania's accession to the main international human rights instruments, its speedy ratification of the Convention, the establishment of the National Committee for the Protection of Children and the introduction of a data collection system were all very positive developments that were to Romania's credit. She had taken note of the efforts made to harmonize domestic legislation with the Convention, but would like more details on that subject, particularly as to whether a harmonization process had actually been undertaken and would continue. She suggested that the Romanian Government should make a comparative analysis of all legislative measures and the provisions of the Convention in order to identify legislative shortcomings.

7. Mr. MOMBESHORA noted from the report of Romania (para. 33) that a child might consult a doctor, even before the age of 14, without the parents' consent. He would like to know whether a child could also undergo a surgical operation without the parents' consent. Paragraph 29 of the report (CRC/C/3/Add.16) stated that the minimum age for marriage for a woman was 16, but that "if there are good grounds, a woman may be permitted to marry at the age of 15". What were the "good grounds" in question?

8. Mrs. SANTOS PAIS joined other speakers in thanking the Romanian delegation for all the information provided on the new measures taken to guarantee the exercise of the rights of the child in Romania and associated herself with the comments made by Mrs. Belembaogo. She stressed the importance she attached to the establishment of a system to coordinate the implementation and monitoring of the Convention in Romania, which would facilitate the collection of all the statistical data needed in order to conduct a periodic assessment of the effectiveness of the measures taken and identify areas in which additional measures were necessary.

9. With regard to the harmonization of domestic legislation with the Convention, it emerged from the report, from all the information documents provided and from paragraph 80 of the core document (HRI/CORE/1/Add.13) that, in order to ensure conformity with the Convention, Romanian legislation would have to be supplemented by measures to promote the rights recognized in articles 12 to 19 of the Convention. She would therefore like to know whether such measures were being considered in order to ensure the effective implementation of the Convention. She also sought more detailed information on what was being done to improve regulatory measures relating to refugee children, child labour and juvenile justice, which was clearly still inadequate. Given the existing shortcomings, she wished to know whether the Convention could not only be a source of inspiration for legislation, but also be directly invoked by a child when domestic legislation did not suffice to protect his rights.

10. Mr. KOLOSOV said that the transition to a market economy usually, in all countries in the same situation, resulted in economic difficulties, social inequalities and a decline in living standards for some categories of the population. Those difficulties should not, however, be used as an excuse not to protect children, but should, on the contrary, prompt Governments to adopt special protective measures. He therefore wished to know what special measures the Romanian Government was taking to protect children's interests, what the concrete results of those measures had been and what the obstacles there were to adoption and implementation.

11. Mgr. BAMBAREN GASTELUMENDI drew attention to questions 3, 7 and 8 of the section entitled "General measures of implementation" of the list of issues to be taken up. Question 3 seemed to him to be of particular importance, since it emerged from the report and from the various information documents provided that action taken on behalf of children suffered from a lack of coordination between the various State bodies responsible for protecting children. For instance, there were no fewer than seven ministries dealing with street children. He would therefore like to have more details on what was being done to ensure better coordination among Government departments. With regard to question 7, he had the impression that in some crucial areas such as education and perhaps even health, the funds allocated were insufficient, since some of the subsidies to secondary education had recently been abolished and he would therefore like to have further information on that subject. Regarding question 8, it would be of interest to know what had effectively been done to overcome the problem of the traditional non-participation by the population in solving social problems, accustomed as it had been under the previous regime to leave everything to the State and hence to encourage the participation of civil society in the defence of the rights of the child.

12. Mr. HAMMARBERG said he agreed with Mgr. Bambaren Gastelumendi that good coordination of the administrative structures established to implement the provisions of the Convention was absolutely essential. A direct link was needed with the decision-making bodies at the highest level to ensure that priority was given to the rights of the child; it must be asked how Romania had solved that problem, which could well be aggravated by the decentralization and privatization currently under way. It was indispensable in that case for the local or regional authorities also to take steps to protect the interests of the child and even more important when private bodies undertook to act on behalf of children. He therefore wished to know whether machinery had been set up to ensure the protection of the rights of the child during the processes of decentralization and privatization. He would also like to know whether steps had been taken to ensure the coordination and efficiency of the action undertaken in the field by the local authorities and civil society and by non-governmental organizations and international agencies such as UNICEF.

13. Mrs. EUFEMIO, referring to question 3 on administrative structures, requested additional information on the institution of the ombudsman who was responsible for defending the rights and freedoms of citizens. It would also be interesting to know how the ombudsman functioned in the context of the local authorities and of the National Commission for Child Protection (CNPC) and to have details concerning the Commission's organization.

14. Mrs. SARDENBERG noted with satisfaction that Romania was striving after democracy in the wake of its heavily totalitarian past. The results achieved bore witness to the goodwill of the Romanian Government, although many serious problems persisted in some areas. She had three questions. First, she asked whether the institution of the ombudsman already existed and whether, in that context, provision had been made for specific measures to protect children; secondly, with reference to paragraph 87 of the core document (HRI/CORE/1/Add.13), she would like to know whether the Romanian Human Rights Institute established in 1991 to ensure a greater familiarity with human rights problems had a specific section on the rights of the child; and thirdly, with reference to the general measures of implementation, she asked whether the report and the Committee's conclusions would be published in Romania.

15. Mr. OPROIU (Romania) said that his country still had to deal with a very large number of problems in the areas of decentralization, the organization of social and medical assistance for children and privatization. Decentralization was under way and problems of social and medical assistance were increasingly being entrusted to community authorities in districts, villages and towns, who would henceforth have a local budget. He admitted, however, that changes were very slow because the communities had no experience of that type of work. Prior to the revolution, all decisions had been taken by a single party and such extreme centralization had left no initiative to the local authorities. Three decentralized districts had been established with the assistance of the European Community and the World Bank.

16. Although the process of privatization was quite dynamic, only a few private medical assistance institutions were in operation in Romania. A law on privatization was being drafted with the help of countries which already had some experience of legislation in the areas of medical and social assistance to children. Romania had received considerable logistic support for establishing and bringing up to standard specialized institutions for abandoned and disabled children.

17. Romanian law and the Constitution provided for the institution of ombudsman, but it did not yet exist in practice. He undertook to inform the Committee in due course of the tasks relating to the rights of the child which would be entrusted to the ombudsman. He also recalled that, in the Romanian system, the rights of the child were a specific branch of human rights.

18. Replying specifically to Mr. Kolosov, he said that the latter was as familiar as himself with the problems facing all former communist countries during the transition period. Romania was nevertheless making every possible effort to help children by preventive and curative means and by vaccination programmes. For example, a hepatitis B vaccine had been made compulsory for all new-born babies throughout Romania. Despite very limited financial resources, measures had been taken to protect children, inter alia, against infection by the human immunodeficiency virus; he deplored Romania's tragic experience in that area.

19. His country was aware of the numerous legislative lacunae in the areas of medical and social assistance, etc. which had been noted by the members of the Committee and was trying to remedy them by bringing Romanian legislation into

line with the provisions of the Convention on the Rights of the Child. Its task was facilitated by the many law-making activities now being carried out in the country, which was making basic changes and trying once again to become the "European" Romania of 50 years previously which had been an extraordinary source of attraction for all its neighbours in the fields of medicine, law, philology, etc. He admitted that communist legislation needed to be transformed into modern legislation in keeping with the idea of democracy and a market economy. He asked the members of the Committee to show understanding about his country's situation and the mistakes which it had committed. He had personally worked for two months as Secretary of State in charge of adapting Romanian postgraduate teaching to European standards. New laws were also required to provide better protection for children. After such a lengthy legal vacuum, the country found it difficult to draw up legislation which met all needs and was in conformity with the spirit of democracy.

20. Referring to the issue of the measures taken to bring the laws in force into line with the Convention, he said that the Act No. 53/1992 on the protection of disabled persons contained a special section on children with various types and degrees of disability and, for the first time in Romania, offered genuine protection to disabled children. More than 10,000 disabled persons were now being cared for at home by persons earning a wage paid by the State, which also paid a wage to the mother if she took care of her disabled child. There were six or eight homes/hospitals which operated as day centres. Unfortunately, not all efforts in that regard were successful because the gross minimum wage paid to parents or persons caring for the disabled was very low. He also deplored the fact that those children could not yet be educated at home because the necessary staff had not yet been trained. With reference to State allowances for children, he said that, before Act No. 61/1993 had been adopted, the subsidy had been paid only to the children of parents employed in State institutions up to the age of 16 and to the children of very low-income parents. At present, the State paid an allowance for all children without exception up to the age of 16 and up to the age of 18 if they continued their education in a school. The allowance was also paid to Gypsies to encourage them to send their children to school. The decision to pay an allowance for all children had been taken on the basis of the principle of non-discrimination. Act No. 11/1990 on the authorization to adopt was in keeping with the provisions of the Convention on the Rights of the Child and the Hague Convention on inter-country adoption. However, it left open the possibility of private adoptions which did not come under the Romanian Adoption Committee. Act No. 47/1993 on the legal declaration of the abandonment of a child clarified the legal status of abandoned children placed in institutions and made it possible to provide children with alternative protection (foster care, adoption).

21. The CHAIRPERSON asked the members of the Committee whether they had comments to make on the subject of the replies given by the Romanian delegation.

22. Mr. KOLOSOV requested details on the difference between the minimum income and the maximum income of a person in Romanian society.

23. Mr. OPROIU (Romania) said that it was difficult to answer that question accurately because there were two types of wages in Romania, public sector

wages and private sector wages, which were higher. Public sector wages varied from 1 to 6, while in the private sector the range was much broader.

24. Mr. KOLOSOV said that it was extremely unfair for the Government to give the same grants to all children. In Russia, where very similar problems occurred, the Government provided grants only to children of low-income parents.

25. Mr. OPROIU (Romania) said the same situation had prevailed in Romania prior to the adoption of Act No. 61/1993.

26. Mrs. MASON, referring to the same question, said she would like to have further information on the process of ratification of Act No. 61/1993 in order to have some idea of the specific provisions it contained. Personally, she wondered whether the Act gave effect to the principle of non-discrimination or whether, on the contrary, it widened the gap between rich and poor in Romanian society. In her view, it would be desirable to return to the situation that had prevailed before Act No. 61/1993 had been promulgated

27. Mr. OPROIU (Romania) said that he endorsed the arguments put forward by the members of the Committee, but explained that the problem was not a very explosive one in social terms in Romania, since until now, a very clear social stratification had existed in the country. The rich were very few in number and at the same time were well known in every community. Efforts were being made to assist the most disadvantaged members of society and the population did not have the impression that the rich were being favoured. However, he admitted that it would be advisable to amend the Act in question.

28. Mrs. MASON pointed out that wealth was a relative concept which varied from country to country. In fact, it was a matter of knowing which persons had access to certain services and which did not.

29. Mrs. SANTOS PAIS said that she welcomed the encouraging developments taking place in Romanian legislation. However, a number of gaps remained, notably with regard to the fundamental freedoms of the child (refugee children, administration of juvenile justice), and they should be filled as a matter of priority. Referring to article 150 of the Romanian Constitution, which provided that the laws and all other Romanian normative provisions would continue to be in force so long as they did not contravene the Constitution, she asked the Romanian representative who had power to determine whether a law contravened the Constitution and whether laws were automatically repealed when they were found to be at variance with the Constitution. Should the case arise, could such a contradiction be invoked before the courts? Would it then be necessary to adopt a law repealing the previous normative provisions? For example, the minimum age for admission to employment was set at 15 years under the Constitution. However, Romania had ratified the ILO Convention on the subject, which set the minimum age at 16 years, and the same age for admissible to employment was provided for in the Labour Code. Nevertheless, an earlier law, which provided that a child could conclude a contract of employment from the age of 15 years, was still in force. That could be harmful to the protection of the child.

30. The Committee attached great importance to the way in which national, central or local budgets were used to safeguard the economic, social and cultural rights of children, as required under the Convention. How were those rights implemented in practice? How did decentralization provide local authorities with the means of dealing with such problems?

31. Mr. OPROIU (Romania) assured the Committee that he would reply to those questions the following day. As far as the budget was concerned, during the period of transition which Romania was currently undergoing, it was the central Government which transmitted to administrative bodies the sums allocated for the protection of the child. Local authorities could then supplement those sums with funds of their own. It should be noted that mayors, who from now on would be elected, had every interest in so doing in order to retain the sympathy of voters. Thus, a number of them had bought books and set up libraries in schools and institutions.

32. Mr. HAMMARBERG said the Committee was not opposed to education grants being made to all families, but, because resources were limited, it was important that the poorest should have enough to ensure the welfare of their children. The grants could be distributed in a different way, for instance on the basis of an income tax scale. He asked the Romanian delegation whether it was true, as suggested by certain information which had come to the Committee's attention, that, in view of the inequality between families, some local authorities were not in a position to give even the minimum protection to the rights of children of the poorest families.

33. Mrs. LAUDATU (Romania) said that decentralization had not yet become a reality in Romania, since all funds still came from the central Government. A new law on the subject had been promulgated in May, but, for the first few months, its implementation had been hampered by functional difficulties. Now, however, the problem was resolved and she assured the Committee that, according to official data, children placed in institutions were being properly cared for. It was true that local authorities had very unequal resources, but a minimum was guaranteed by the central Government.

34. The CHAIRPERSON invited the delegation to reply to the questions contained in the section entitled "General principles" in the list of issues communicated to Romania (CRC/C/5/WP.5); they were questions of fundamental importance, since they concerned the underlying principles of the Convention, and should influence all activities carried out by the Government on behalf of children, thus implementing the Convention.

General principles

Non-discrimination (art. 2 of the Convention)

1. What general measures are taken to implement the legislation about non-discrimination? Please indicate specific and concrete measures taken to combat discrimination against children belonging to minorities, including measures to eliminate and prevent discriminatory attitudes and prejudices.

Best interests of the child (art. 3 of the Convention)

3. Please indicate in what ways the principle of the "best interests of the child" is made part of the training of judicial personnel.

The right to life, survival and development (art. 6 of the Convention)

4. Please indicate the steps taken to promote "to the maximum extent possible" the survival and development of the child through programmes for early childhood education and care.

Respect for the views of the child (art. 12 of the Convention)

5. Please indicate how the views of the child are taken into consideration in legislation, e.g. in the Family Code. Please exemplify how the participation of young people is ensured in political, social, economic and cultural life.

6. What concrete measures have been taken to sensitize public opinion and educate personnel, working with children about the need to encourage children's participatory rights?

35. Mr. OPROIU (Romania) replied by referring to an unnumbered document sent to members of the Committee by the Romanian Government, entitled "Implementation of the Convention on the Rights of the Child". Among the replies to the Committee's list of issues (CRC/C/5/WP.5), he read out those concerning "General principles" appearing on page 5 of the document, beginning with question 1 of the subsection entitled "Non-discrimination" (art. 2 of the Convention). The general measures taken to ensure compliance with the provisions of article 2 of the Convention were the following: the rights of the child were guaranteed without discrimination of any kind, irrespective of the race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status of the child or of his or her parents or legal guardians; the principle of the equality of all citizens before the law and before the authorities, "without privilege or discrimination", was embodied in article 6, paragraph 1, of the Constitution; under the Constitution, Romania was one indivisible nation for all its citizens "without distinction as to race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, property or social origin" (art. 4, para. 2); the principle of the equality of parents in the exercise of parental rights was also safeguarded, with a view to ensuring the development, education and instruction of children (art. 44, para. 1); the elimination of all forms of discrimination on grounds of the child's birth in or out of wedlock was guaranteed by article 44, paragraph 3, to which he had already referred; at the same time, the Constitution guaranteed the right of persons (children and parents) belonging to national minorities to "retain, develop and express their ethnic, cultural, linguistic and religious identity" (art. 6, para. 1); children had the right to learn their mother tongue and to be taught in their mother tongue (art. 32, para. 5, of the Constitution); in addition, the State guaranteed freedom of religious teaching, in accordance with the specific requirements of each faith (art. 32, para. 7); in relations between religious faiths, the Constitution prohibited "all forms, means, acts or actions of religious conflict" (art. 27, para. 4); freedom of expression

should not be prejudicial to the honour, dignity or self-respect of any other person (art. 30, para. 6); instigation to hatred on grounds of race, class or religion, and incitement to discrimination, territorial separatism or public violence were expressly prohibited (art. 30, para. 7, of the Constitution).

36. In April 1993, the Council of National Minorities, a body in consultative status with the Government of Romania, had been established by Government decision No. 137; its task was to follow up and solve problems specific to persons belonging to national minorities. The Council dealt with problems of a legal, administrative and financial nature affecting the exercise of the rights of national minorities in respect of the preservation, development and expression of their ethnic, cultural, linguistic and religious identity; those rights were defined in the Constitution and in international conventions to which Romania was a party.

37. He then referred to a written reply on the question of the best interests of the child (art. 3 of the Convention; question 3 of the relevant subsection of the list of issues). He emphasized that the principle of the best interests of the child was recognized in all domestic legislation governing child protection. Where protection measures for minors up to 14 years of age were concerned, legal personality was not involved, except in cases of adoption, placement, divorce and appeals against decisions by the Commission for the Protection of Minors. In all such cases, it was required by law that, any child of over 10 years of age who had recourse to the courts had to be given a hearing, and that a decision should then be taken in the best interests of the child in accordance with established procedures. The best interests of the child was one of the fundamental principles of the Family Code and, as such, occupied an important place in the study of legislation organized at different levels for the various categories of personnel trained to implement legal provisions for the protection of and respect for the rights of the child. Family law was a compulsory subject for all law students; it was also a compulsory subject in the curriculum of the National Institute for the Training of Magistrates; in which priority was given to measures to incorporate international legal provisions adopted by the United Nations and the Council of Europe in internal law.

38. In reply to a question on the right to life, survival and development (art. 6, para. 4), he described the progress achieved since 1990 in promoting the survival and development of the child. The number of days of paid leave granted to working mothers following the birth of a child had been increased from 112 days before the revolution to 12 months, on request; under Act No. 53/1992, mothers were granted leave to care for children with special needs up to the age of 3 years. In addition, children were now given access to education and to infant care by means of creches (birth to 3 years) and infant schools (3 to 7 years). Under Health Act No. 3/1978, health personnel in creches were required to stimulate the psychomotor development of the child and to make periodic notes of its progress and development. The new pre-school teaching programme was designed on the basis of respect for the needs of the child's overall development. Since 1990, creches and infant schools had expanded the content of the educational activities and care they provided, but, unfortunately, the number of children attending them had fallen, one reason being the increase in the monthly contributions payable by parents. An important step in improving access to education and infant care,

had been the establishment by the Ministry of Health of day centres and neurological and psychomotor rehabilitation centres, offering education and specialist care for children from birth to 3 years of age who were retarded in terms of psychomotor development. Before the establishment of such centres, the only options for small children with special needs had been either boarding in a day nursery or remaining within the family, but without any possibility of specialist care.

39. Again referring to his country's unnumbered supplementary report, he read out a written reply on respect for the opinions of the child (art. 12, questions 5 and 6). Under article 102 of the Family Code: "The authority having guardianship of the child may give its agreement to the child's request, after 14 years of age, to change the type of teaching or course of training chosen by his or her parents or may enable the child, on request, to complete his or her education or training". When the custody of children was granted to a divorced or separated parent, the court was once again required to give a hearing to children aged over 10 years and the child's wishes were taken into consideration when it was decided whether it was in his or her best interests for the father or mother to be granted custody (Family Code, art. 42). At the request of a child aged 14 years or over, the tutelary authority would be able to modify certain measures concerning personal or patrimonial rights and obligations between divorced parents and the child. If one of the parents, rather than the child, made such a request, the child would be given a hearing, provided that he or she was aged 10 years or over (Family Code, art. 44). The agreement of the child was also required for the approval of applications for adoption, if he or she was aged 10 years or over (art. 70). When the courts were called on to decide the nationality of a minor, if one of the parents had obtained Romanian citizenship on request, had reassumed Romanian citizenship on returning to the country or if only one of two adoptive parents was a Romanian citizen, Act No. 21/1991 on Romanian citizenship required the court to ask the views of a child aged 14 years or over (arts. 6, 9 and 10).

40. Summing up, it would be noted that the legislator had set two age levels at which the views and preferences of the child had to be taken into consideration: 14 years of age for very important problems, for which some degree of experience and judgement would be needed in order to form an opinion, such as changes in educational or training courses, change of domicile, relations with divorced parents, or retaining or changing citizenship; and 10 years of age for problems that were equally important, but where the choice depended more on the feelings and preferences of the child, for instance, whether to live with one parent or the other in cases of divorce or de facto separation, or a request by one or other parent to change certain of the provisions governing his or her relations with the child.

41. In reply to question 6 of the same section of the Committee's list of issues, he said that, with the assistance of non-governmental organizations, the text of the Convention had been disseminated in different versions adapted for children of various ages and had been distributed in all educational establishments whenever symposiums on the subject of child protection were held.

42. Mrs. BELAMBAOGO, noting that, in describing the legislative measures in question, the Romanian representative had mentioned the principle of non-discrimination and stated that his Government had set up a Council of National Minorities, said she took it that some form of discrimination existed in Romania. The Committee would like to know whether the legislative provisions mentioned were really applied in practice, particularly with regard to the law on custody of children, so that children were able to develop and to express their ethnic, cultural, linguistic and religious identity. Was the Government planning any specific programmes or concrete measures in the social and educational fields to put those legal provisions into practice and to eliminate, in the medium or long term, all discrimination against those communities?

43. Mr. HAMMARBERG pointed out that a certain ethic in respect of children was implied in the four questions referred to. He realized that the current Government of Romania had inherited a past which was far from favourable to children. The former Government had encouraged the population to have as many children as possible, but in practice the effects of that policy had been harmful, especially for handicapped children who did not receive the assistance they needed; their mothers, impelled to bear yet more children, then found themselves in a position where they were unable to care for them. The current Government should change that situation and ensure that adults acted more responsibly in the matter by making them understand what was meant by respect for the child, the best interests of the child and the development of the child. He was pleased to note that the current Government was concerning itself with nursery schooling, but would like it to make further efforts in that area. That was the purpose of question 6 in the section of the list now under consideration; he would encourage the Government to do more in that connection than was required by law. He noted that, in Romania, discrimination did not seem to affect girls. On the other hand, the children of certain minorities, including the Roms, did suffer from discrimination: thus, one out of every two Rom children did not attend school, despite the allowances paid to schools to encourage parents to send them there. He asked the representative of Romania for further information on the subject.

44. Mr. OPROIU (Romania) said that, according to the last census, which had been carried out two years earlier, the Roms numbered 400,000 out of a total population of 26 million.

45. Mr. HAMMARBERG said that, in any event, that constituted a large minority, which appeared to be isolated from the rest of society. In addition, relations between the Roms and the rest of the population seemed to be characterized by a certain degree of animosity. What measures were the authorities taking to ensure that Rom children were not victims of that hostility and to ensure that their rights, particularly the right to education, were protected?

46. Mrs. MASON said that, under article 2 of the Convention, States parties undertook to respect the rights of children, regardless of the status of their parents. In addition, the principle of the equality of all children, whether born in or out of wedlock, was embodied in the Romanian Constitution. The Constitution also provided that marriage should be the foundation of the family. Did that mean that children born out of wedlock were in danger of

suffering from discrimination? The Family Code also stipulated that the breakdown of a marriage should not have any effect on the children, who would retain their status as children born in wedlock. If the Constitution guaranteed the equality of all children, why was that provision needed?

47. Mrs. SANTOS PAIS said that, under article 2, States parties undertook to respect the rights of each child within their jurisdiction. Under the Romanian Constitution, citizens were equal before the law (art. 16 of the Constitution, para. 35 of the report). Did that mean that article 16 applied only to children of Romanian nationality, and not, for instance, to stateless or refugee children? Furthermore, article 2 of the Convention prohibited any discrimination on grounds of sex. However, it was stated in paragraph 29 of the report that the age for marriage was not the same for men as for women.

48. She would also like to have further details on the Council of National Minorities. Did that consultative body give advice to the Government on request or was it able to act on its own initiative, for instance by suggesting that a certain law should be amended so as to remedy the situation of particular disadvantaged groups? If so, was its advice made public? Were the various national minorities represented on the Council?

49. Turning to the question of the best interests of the child, she asked whether the Family Code could really take those interests into account, in view of the fact that it dated from 1954. According to article 99 of the Code, in the case of disputes between the parents, the tutelary authority would decide in conformity with the interests of the child, after having heard the parents. Did that mean that the opinion of the child was not taken into consideration?

50. The Romanian delegation had stated in its written replies that a child aged over 10 years could be required to give evidence in a court case. Did that mean, for instance, that, in the event of divorce, a child could be forced to take the side of one or other of its parents, even if there was a danger that such an action might be contrary to its own best interests? In conclusion, she wondered whether the Romanian Government should not amend its legislation concerning children to bring it into line with the Convention.

51. Mrs. EUFEMIO recalled that, under the Convention, inter-country adoption should be considered only as a last resort. However, she wondered whether there was a danger that that provision might not result in a certain form of discrimination, to the extent that, in some cases, inter-country adoption might serve the best interests of the child better than national adoption.

52. Mr. OPROIU (Romania) said that Romanian legislation on non-discrimination was satisfactory, even if it was occasionally poorly applied in practice. It was crucial that children should be taught tolerance and respect for others from a very early age, whether at school or in the home. In that connection, adults should also be educated to respect the principle of non-discrimination so that they would not transmit racist prejudices to their children. He pointed out that training courses were organized for doctors with a view to making them aware of the rights of the child.

53. As to the Rom minority, which included many singers and artists, it was generally regarded with sympathy in Romania and other countries of central and eastern Europe. However, the behaviour of the Roms might seem very strange to anyone who did not know them. Thus, for instance, they tended instinctively to act contrary to established rules. They had an emperor and a king and were represented by six political parties. Rom families were usually very large. That was probably the result of economic reasons; in fact, family allowances were not ungenerous. The Roms usually refused to send their children to school, and that explained the difficulties they encountered later on in finding respectable work. That was why the Romanian Government had decided to give allowances to parents who agreed to send their children to school.

54. As far as languages were concerned, children of national minorities could receive instruction in their mother tongue. Minorities could also organize cultural events in their own language. In that connection, it should be noted that the Rom language was a spoken language only.

55. Since he was not a lawyer, he was unfortunately not in a position to reply to the legal questions raised by Mrs. Santos Pais, but he could state that minorities were represented in the Minorities Council on the basis of population share. It should also be noted that national minorities were represented in Parliament. The Minorities Council was responsible for dealing with questions relating to the protection of the rights of minorities and it was in the light of the Council's discussions on the matter that the Government submitted new laws concerning those rights to Parliament.

56. Lastly, a new Family Code was currently being drafted and the suggestions made by the members of the Committee would no doubt be taken into consideration by the Romanian Government in that connection. When completed, the draft Family Code would be sent to members of the Committee so that they could express their views on it.

The meeting rose at 6.05 p.m.